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**NOTE CHANGE MADE
BY THE COURT**

7 Attorneys for Plaintiff
VIVENDI S.A.

8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

11
12 VIVENDI S.A., a French corporation,
13 Plaintiff,
14 vs.
15 AXA INSURANCE COMPANY, a
New York corporation,
16 Defendant.
17

CASE NO. CV09-8893 DDP (PLAx)

**ORDER RE STIPULATED
PROTECTIVE ORDER**

Filing Date: December 3, 2009
Trial Date: October 11, 2011

18 AND RELATED COUNTERCLAIMS.
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1 Having reviewed the Stipulated Protective Order filed jointly by Vivendi S.A.
2 and AXA Insurance Company, a copy of which is attached hereto, and good cause
3 appearing therefor, the Court hereby enters the Stipulated Protective Order.

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5 IT SO ORDERED:

6
7 DATED: September 2, 2010


Paul L. Abrams
UNITED STATES MAGISTRATE JUDGE

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP

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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
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12 VIVENDI S.A., a French corporation,
13 Plaintiff,
14 vs.
15 AXA INSURANCE COMPANY, a
New York corporation,
16 Defendant.
17

CASE NO. CV09-8893 DDP (PLAx)

**STIPULATED PROTECTIVE
ORDER RE: CONFIDENTIAL
INFORMATION**

Filing Date: December 3, 2009
Trial Date: October 11, 2011

18 AND RELATED COUNTERCLAIMS.
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1 Subject to the approval of this Court, the parties hereby stipulate to the
2 following protective order:

3 **GOOD CAUSE STATEMENT:**

4 Discovery in this lawsuit will involve the production of highly sensitive
5 financial and business information, as well as proprietary information, that has not
6 been disseminated to the public at large, that is not readily discoverable by
7 competitors of the parties to this litigation, and that has been the subject of
8 reasonable efforts by the respective parties to maintain its secrecy. Special
9 protection from the public disclosure of this confidential, proprietary information is
10 warranted in order to prevent the use of such information for purposes not related to
11 this litigation. Such proprietary information includes: (1) documents regarding the
12 underwriting of a multi-million dollar insurance policy for plaintiff Vivendi S.A.
13 (“Plaintiff”), including the confidential terms of such policy and numerous
14 confidential disclosures and communications made by Plaintiff in connection with
15 the underwriting of that policy; (2) information regarding worldwide assets held by
16 Plaintiff, including information concerning the acquisition and estimated value of
17 music recordings and associated rights, which is not available to Plaintiff’s
18 competitors; (3) information regarding prior confidential insurance claims made by
19 Plaintiff; (4) the confidential underwriting process employed by defendant AXA
20 Insurance Company (“Defendant”), and its sister company, AXA Corporate
21 Solutions (“AXA CS”), including its underwriters’ analysis for proposal and
22 renewal compliance with underwriting guidelines; (5) proprietary methods by which
23 Defendant and AXA CS calculate premiums charged to their clients, including their
24 rate structure and rating tools; (6) Defendant and AXA CS’s confidential
25 underwriting guidelines and policies, which if disclosed would provide Defendant’s
26 and its sister company, AXA CS’s competitors a competitive advantage;
27 (7) reinsurance policies and treaties which have been developed over years of
28 negotiation and are strictly confidential, even amongst Defendant’s and AXA CS’s

1 employees; (8) Defendant and AXA CS's engineering analysis tools; and (9)
2 Defendant and AXA CS's insurance network agreements.

3 The public disclosure of Plaintiff's confidential information would impair
4 future business dealings and provide competitors with an unfair competitive
5 advantage. Among other things, the disclosure of Plaintiff's confidential
6 information concerning its acquisition and valuation of assets, including music
7 recordings and music catalogs, is likely to prejudice its ability to negotiate
8 agreements for the sale, distribution, and/or exploitation of those assets. Similarly,
9 the disclosure of Plaintiff's confidential information is likely to prejudice its
10 negotiation of new agreements regarding the acquisition, distribution, and/or
11 exploitation of music recordings.

12 Disclosure of Defendant and AXA CS's confidential information set forth
13 above would result in a loss of competitive advantage and risk of unfair competition
14 because competitors would know details regarding Defendant and its sister company
15 AXA CS's underwriting policy and pricing methods while Defendant would not be
16 in possession of similar information regarding the underwriting and pricing policies
17 of its competitors. This would provide Defendant and AXA CS's competitors with
18 a distinct advantage in the case of tendering insurance policies. Furthermore,
19 regulatory authorities do not allow insurers to disclose to each other their rates.
20 Defendant and AXA CS's clients may also use such information to challenge the
21 amount and calculation of premiums. In addition, insurance brokers generally ask
22 for quotations from a number of insurers and knowledge of Defendant and AXA
23 CS's underwriting guidelines would allow such brokers to destroy the binding
24 process. Finally, each of Defendant and AXA CS's treaties and facultative
25 placement has its own rates. Disclosure of this information would damage
26 Defendant and AXA CS's ability to negotiate treaty and facultative rates.

27 Given the foregoing, the parties hereby stipulate to and petition the Court to
28 enter the following Stipulated Protective Order. The parties acknowledge that this

1 Stipulated Protective Order creates no entitlement to file confidential information
2 under seal, unless ordered by the Court.

3 PROTECTIVE ORDER:

4 1. In connection with discovery proceedings in this action, the parties may
5 designate any document, thing, material, testimony or other information derived
6 therefrom, as “Confidential” under the terms of this Stipulated Protective Order
7 (hereinafter “Order”). Confidential information is information which has not been
8 made public and which concerns or relates to the forms, processes, operations, type
9 or work, or apparatus, or to the production, sales, shipments, purchases, transfers,
10 identification of customers, inventories, amount or source of any income, profits,
11 losses, or expenditures of any persons, firm, partnership, corporation, or other
12 organization, or involving underwriting policies, premium calculations, or the
13 disclosure of any other information which may have the effect of causing harm to
14 the competitive position of the person, firm, partnership, corporation, or to the
15 organization from which the information was obtained.

16 By designating a document, thing, material, testimony or other information
17 derived therefrom as “confidential,” under the terms of this order, the party making
18 the designation is certifying to the court that there is a good faith basis both in law
19 and in fact for the designation within the meaning of Federal Rule of Civil
20 Procedure 26(g).

21 2. Confidential documents shall be so designated by stamping copies of
22 the document produced to a party with the legend “CONFIDENTIAL.” Stamping
23 the legend “CONFIDENTIAL” on the cover of any multipage document shall
24 designate all pages of the document as confidential, unless otherwise indicated by
25 the producing party. Any electronically stored information produced on magnetic
26 disks or other computer-related media may be designated as Confidential by
27 labeling each disk or media as “CONFIDENTIAL” prior to production. Electronic
28 or native documents or information shall be similarly labeled where practicable, and

1 where not practicable, written notification by a producing party that it is producing
2 materials as confidential shall suffice for treatment as provided herein for such
3 categories.

4 3. The inadvertent or unintentional disclosure by the producing party of
5 Confidential materials shall not be deemed a waiver, in whole or in part, of the
6 Confidential nature of such material, and, if so designated at any time, the
7 Confidential materials so disclosed shall be governed by, and subject to, the terms of
8 this Order.

9 4. Deposition testimony may be designated Confidential by oral
10 designation on the record, or within twenty (20) days after the transcript of such
11 deposition is made available to the designating party. The person making the
12 designation shall instruct the court reporter to separately bind the portions of the
13 deposition transcript so designated, and to stamp the words "CONFIDENTIAL" on
14 each page of the transcript as appropriate. Pending expiration of this twenty (20)
15 day period, all parties shall treat the testimony and exhibits as if such materials had
16 been designated as Confidential.

17 5. Material designated as Confidential under this Order, the information
18 contained therein, and any summaries, copies, abstracts, or other documents derived
19 in whole or in part from material designated as Confidential (hereinafter
20 "Confidential Material") shall be used by the receiving party only for the purpose of
21 prosecution, defense, or settlement of this action, and for no other purpose.

22 6. Confidential Material produced pursuant to this Order may be disclosed
23 or made available only to the Court, to outside and in-house counsel for a party
24 (including paralegal, clerical, and secretarial staff employed by such counsel) and to
25 the "qualified persons" designated below:

26 (a) a party, or an officer, director, or employee of a party deemed
27 necessary by counsel to aid in the prosecution, defense, or settlement of this action;

28 (b) an officer, director, or employee of AXA Corporate Solutions

1 deemed necessary by counsel to aid in the prosecution, defense or settlement of this
2 action;

3 (c) experts or consultants (together with their clerical staff) retained
4 by such counsel to assist in the prosecution, defense, or settlement of this action;

5 (d) court reporter(s) employed in this action;

6 (e) a witness at any deposition or other proceeding in this action,
7 provided that the deposing party has a good faith basis for believing that the
8 Confidential Material is reasonably related to the witness's testimony; and

9 (f) any other person as to whom the parties in writing agree.

10 Prior to receiving any Confidential Material, any expert or consultant of
11 any party shall be provided with a copy of this Order and shall execute a
12 nondisclosure agreement in the form of Attachment A. Counsel for the parties shall
13 maintain copies of all such nondisclosure agreements and shall provide copies to
14 each other party upon request at the conclusion of the action.

15 For purposes of this Order, the term "party" shall be construed to include
16 Vivendi S.A. subsidiary UMG Recordings, Inc.

17 7. Depositions shall be taken only in the presence of qualified persons.

18 8. The parties may further designate certain discovery material or
19 testimony of a highly confidential and/or proprietary nature as "CONFIDENTIAL -
20 ATTORNEYS' EYES ONLY" (hereinafter "Attorneys' Eyes Only Material"), in
21 the manner described in paragraphs 2-4 above. The parties will designate as
22 Attorneys' Eyes Only Material only those materials which they believe, in good
23 faith, are of such a highly sensitive nature that disclosure should be limited to a
24 narrower group of people, including but not limited to materials containing trade
25 secrets, future business plans, non-public proprietary product development
26 information, financial information not released or announced to the public, and
27 information protected by any right of privacy. Attorneys' Eyes Only Material, and
28 the information contained therein, shall be disclosed only to the Court, to the parties'

1 outside and in-house counsel (including the paralegal, clerical, and secretarial staff
2 employed by such counsel), and to the “qualified persons” listed in subparagraphs
3 6(c) through (e) above, but shall not otherwise be disclosed to a party, or to an
4 officer, director or employee of a party, unless otherwise agreed or ordered. If
5 disclosure of Attorneys’ Eyes Only Material is made pursuant to this paragraph, all
6 other provisions in this order with respect to confidentiality shall also apply.

7 9. Nothing herein shall impose any restrictions on the use or disclosure by
8 a party of material obtained by such party independent of discovery in this action,
9 whether or not such material is also obtained through discovery in this action, or
10 from disclosing its own Confidential Material as it deems appropriate.

11 10. Any pleadings, documents, materials or exhibits using, referring to or
12 incorporating Confidential or Attorneys' Eyes Only Material which are submitted to
13 the Court for consideration in relation to a motion or other filing shall be lodged
14 with the Clerk of the Court in a sealed envelope designated “Confidential - Subject
15 to Protective Order” on its face. Concurrent with the lodging of such documents,
16 the lodging party shall file an application to file the documents under seal, setting
17 forth an appropriate legal basis (e.g., good cause, compelling reason, etc.) for
18 sealing the documents from the public record. The party shall also lodge a
19 narrowly-tailored proposed order sealing the documents. Concurrent with the
20 lodging of such documents, the lodging party shall, to the extent practical, file a
21 redacted version of any pleadings that contain information the Party believes to be
22 Confidential and/or Attorneys' Eyes Only. A designating party may waive the status
23 of Confidential or Attorneys' Eyes Only Material at any time by electing to file such
24 documents without sealing.

25 11. Nothing in this Order (a) restricts the introduction at trial of any
26 documents, testimony, or other evidence regardless of whether such evidence is
27 designated Confidential; or (b) restricts the use of information obtained from
28 sources other than discovery, motion practice, or voluntary disclosure of information

1 by any Party conducted under the terms of this Order

2 12. This Order shall be without prejudice to the right of the parties to bring
3 before the Court at any time the question of whether any particular document or
4 information is Confidential or whether its use should be restricted. In the event of a
5 dispute regarding the designation or disclosure of confidential information, the
6 parties shall follow the procedure for obtaining a decision from the Court set forth in
7 Local Rule 37. If the parties desire to file the Joint Stipulation required by Local
8 Rule 37 under seal, the parties shall file a stipulation to that effect or submit an ex
9 parte application making the appropriate request, both of which shall include a good
10 cause statement regarding why the Joint Stipulation or portions thereof should be
11 filed under seal.

12 13. This Order shall be without prejudice to the right of the parties to
13 present a motion to the Court under FRCP 26(c) for a separate protective order as to
14 any particular document or information, including restrictions differing from those
15 as specified herein. This Order shall not be deemed to prejudice the parties in any
16 way in any future application for modifications of this Order.

17 14. This Order is entered solely for the purpose of facilitating the exchange
18 of documents and information between the parties to this action without involving
19 the Court unnecessarily in the process. Nothing in this Order, nor the production of
20 material in accordance herewith, shall constitute an admission or waiver by any
21 party as to the confidentiality or non-confidentiality of such material outside the
22 scope of this action.

23 15. To the extent that the information contained in Confidential Material is
24 not, and does not become, known to the public (through its introduction at trial or
25 otherwise), this Order shall survive the final termination of this action, . Unless the
26 parties agree otherwise in writing, within sixty (60) days of the conclusion of this
27 litigation, whether by settlement or final, non-appealable decision of the Court, the
28 parties, counsel for the parties, and all other persons **other than the Court** who are

in possession of Confidential Material or Attorneys' Eyes Only Material agree that they will (a) destroy or return to the producing party or third party all hard copy documents, other than attorney work product, containing designated Confidential or Attorneys' Eyes Only Material produced by a party or third party; and (b) delete all electronically stored documents, other than attorney work product, containing designated Confidential or Attorneys' Eyes Only Material produced by a party or third party. Notwithstanding the foregoing, the parties shall not be obligated under this Order to ensure the destruction of any copies of electronically-stored Confidential or Attorneys' Eyes Only Material made by the automatic processes of their computer systems, including but not limited to any such copies that may reside on their servers and/or backup tapes.

SO STIPULATED:

DATED: September 1, 2010

KINSELLA WEITZMAN ISER KUMP &
ALDISERT LLP

By: /s/ Gregory Korn

Gregory Korn

Attorneys for Plaintiff VIVENDI S.A.

DATED: September 1, 2010

MCKAY, GRAHAM & DE LORIMIER

By: /s/ John P. McKay

John P. McKay

Attorneys for Defendant AXA
INSURANCE COMPANY

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TEL 310.566.9800 • FAX 310.566.9850

1 APPROVED AND SO ORDERED:

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3 DATED: _____, 2010

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Paul L. Abrams

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UNITED STATES MAGISTRATE JUDGE

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ATTACHMENT A

I, _____, do solemnly swear that I am fully familiar with the terms of the Stipulated Protective entered in *Vivendi, S.A. v. AXA Insurance Company*, United States Court for the Central District of California, Civil Action No. CV09-8893 DDP (PLAx), and hereby agree to comply with and be bound by the terms and conditions of said Order unless and until modified by further Order of the Court. I hereby consent to the jurisdiction of said Court for the purposes of enforcing this order.

DATED: _____